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STATE FOR EUR/UMB AND EB/TPP/IPE
STATE PLEASE PASS TO USTR FOR LMOLNAR/JGROVES
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COMMERCE PLEASE PASS TO USPTO
MUMBAI FOR WKLEIN

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TAGS: [ETRD](#) [KIPR](#) [ECON](#) [EAID](#) [UP](#)

SUBJECT: PROJECT PROPOSAL FOR 2007 IPR ENFORCEMENT TRAINING
FUNDS PROGRAM: CREATING A SUSTAINABLE UKRAINIAN IPR
TRAINING CAPABILITY

REF: A. STATE 55928

[1](#)B. KYIV 449

[1](#)1. Summary: Post proposes a project entitled "Creating a Sustainable Ukrainian IPR Training Capability" to be funded as part of the 2007 IPR Enforcement Training Funds Program. Improving IPR enforcement in Ukraine remains a serious USG priority. Since 2004 there has been progress toward good governance in Ukraine, and the GOU has demonstrated the political will to take IPR enforcement seriously. The GOU would be a stakeholder in the proposed project and therefore would be committed to its realization. Our project would build on recent USG assistance efforts aimed at improving the GOU's capacity to provide IPR enforcement training and to strengthen its information technology and forensic capabilities. The project would enable Ukraine to extend training opportunities to officials on the local level who rarely have access to discrete internationally sponsored training programs abroad. End Summary

Project Description

[1](#)2. For the 2007 IPR Enforcement Training Funds Program (ref A), Post proposes conducting a technical assistance project aimed at enhancing the Government of Ukraine's capacity to train national and regional officials on the enforcement of intellectual property rights (IPR). The Department of Commerce's Commercial Law Development Program (CLDP) is currently completing work on a comprehensive IPR training manual in Ukrainian and English for officials of Ukraine's State Department of Intellectual Property (SDIP). With its current funding, CLDP will conduct a "train the trainer" seminar for SDIP officials, with the goal of creating a corps of Ukrainian IPR trainers who can then work with other branches of the GOU.

[1](#)3. Post's proposal is to bolster these efforts by funding a series of five joint CLDP-SDIP follow-on training sessions for key target audiences -- customs officials, law enforcement, and judges. CLDP would be the implementer of the project, organizing the follow-on training sessions in cooperation with SDIP. CLDP would include U.S. and other foreign experts to enhance the effectiveness of the training sessions. During the sessions, SDIP officials would begin training Ukrainian officials themselves, with oversight and critique by CLDP. Post's proposal would both

train approximately 125 Ukrainian officials directly involved in IPR enforcement, and develop the SDIP training corps.

Estimated Budget

14. Total: \$125,000

Based on previous CLDP budgets, Post estimates that conducting each of the five training sessions would cost \$25,000. Here is an estimated breakdown of costs:

- Training materials for participants: \$3,000
- Simultaneous interpretation: \$3,000
- Meals, Coffee breaks, etc: \$5,000
- Miscellaneous: badges, notebooks, pens, etc.: \$1,000
- Travel, per diem, and lodging for foreign experts: \$7,000
- Travel for Ukrainian officials: \$2,000
- Conference Room (if necessary): \$4,000

Improving IPR Enforcement in Ukraine is a USG Priority

15. Between 2002 and 2005, prior to a January 2006 Special 301 Out-of-Cycle Review by the Office of the U.S. Trade Representative (USTR), Ukraine was the only country in the world on USTR's list of Priority Foreign Countries for its shortcomings in protecting intellectual property rights. IPR enforcement remains a serious concern, and in 2007 Ukraine remained on the Special 301 Priority Watch List among the countries of most concern to the USG. U.S. industry reports losses in the hundreds of millions of dollars due to IPR infringement in Ukraine. In addition, weak IPR enforcement enables trans-border smuggling and

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other illegal operations, directed in some cases by organized criminal (OC) groups. Industry groups report that almost all production of counterfeit and copyrighted goods in Ukraine has ceased, and Ukraine is now a major destination and transshipment point for illicit traders, who are often directed by OC groups.

GOU Has Political Will to Tackle Problem

16. Since the transformational impact on governance of the 2004 "Orange Revolution," Ukraine has demonstrated the political will to improve its IPR regime, most notably through the passage of critical Optical Disk Legislation in 2005. As recently as May of this year, Ukraine has made additional, important legal changes as part of its commitment to join the WTO as soon as possible. There has also been a significant increase in the number of arrests and convictions for IPR-related crimes (ref B). The Ministry of Internal Affairs reported that there were 812 IPR-related criminal investigations in 2006, up 68% from 2005. Of these cases, 462 went to court (up 235% from 2005), and 115 led to convictions (up 311% from 2005). Statistics from early 2007 indicate continuing progress. The GOU meets regularly to review IPR enforcement issues with industry representatives and U.S. officials through the Enforcement Cooperation Group, and Ukraine maintains a similar dialogue with the European Union. SDIP, Ukraine's lead agency for IPR issues, has demonstrated that it is competent and committed to improving IPR protection in the country.

17. Post has developed this proposal in consultation with SDIP. SDIP officials themselves have identified the target audience -- customs, law enforcement, and judges -- and Post concurs with their assessment. SDIP has also pledged to provide suitable locations for each of the sessions (assuming its conference rooms will meet space requirements), and to fully fund the involvement of its

training personnel. SDIP officials, including the Department's Chairman Mykola Paladiy, have specifically requested assistance in upgrading their own training capability, and SDIP will therefore have a real sense of ownership of this project.

Project Holds Real Opportunity for Success

¶8. The USG has invested substantial resources into bolstering IPR protection in Ukraine. These efforts, combined with the emergence of serious political will on the Ukrainian side, have led to significant progress in recent years. Ukraine now has the capacity to achieve measurable success, as there exists a group of knowledgeable officials within key national-level institutions who are committed to combating IPR infringement. The need is now to impart this IPR experience and commitment to officials at the local levels, and to be sure it is sustainable. This project provides the best opportunity to take IPR enforcement in Ukraine to that next level.

¶9. The project will also provide a more systematic approach to improving IPR enforcement than a single training session ever could. CLDP's training manual provides a good framework with which GOU trainers can operate, and this project would multiply its impact.

Project Meets Broader U.S. Foreign Policy Goals

¶10. Bolstering IPR protection is part of larger U.S. objectives to improve the rule of law and to encourage political and economic reform in the country. World-class IPR enforcement is necessary for Ukraine to accede to the WTO and to integrate with the Euro-Atlantic community -- both core U.S. foreign policy objectives for Ukraine.

Strong Project Oversight

¶11. CLDP has extensive experience in running IPR-related

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training sessions in the former Soviet Union, in particular in Ukraine, and has the organizational capacity necessary to do so. Post believes that CLDP is best placed to serve as the project implementer. Post has consulted with CLDP in developing this proposal.

¶12. CLDP would provide detailed accounting of the use of all funds, just as it has done for past training seminars. Post would also maintain oversight of the project, with an Embassy representative attending some, if not all, of the sessions. Post's Economic Officer responsible for trade issues would also maintain a continual dialogue with CLDP to monitor progress.

¶13. The most measurable benchmark to track the project's progress would be the number of government officials trained on IPR enforcement issues. Other important benchmarks, although harder to calculate and/or to attribute directly to the project, would include -- the number of IPR-related arrests and convictions, the number of IPR-infringing goods seized at the border, the number of IPR-infringing goods destroyed or properly disposed of, and the stiffness of sentencing for IPR-related convictions.

TAYLOR